

**MADISON COUNTY FISCAL COURT
MADISON COUNTY, KY
RESOLUTION 2023-121**

**A RESOLUTION FOR THE MADISON COUNTY FISCAL COURT TO APPROVE
A BID AWARD FOR AN EMERGENCY MANAGEMENT AGENCY (EMA)/CHEMICAL
STOCKPILE EMERGENCY PREPAREDNESS PROGRAM (CSEPP) STORAGE BUILDING**

WHEREAS, the Madison County Fiscal Court is required to approve of all bids for projects in accordance with the Administrative Code; and

WHEREAS, the bids were needed for an EMA/CSEPP storage building; and

WHEREAS, the bid notice was properly posted, and one bid was received, opened, and reviewed; and

WHEREAS, the EMA/CSEPP team recommends awarding the bid for an emergency storage building to Stewart Contracting Corp.; as planned and budgeted through the Federal CSEP Program in accordance with all FEMA and CSEPP regulations and approvals;

NOW, THEREFORE, BE IT RESOLVED THAT THE FISCAL COURT DOES HEREBY APPROVE THIS RESOLUTION AND AUTHORIZES THE JUDGE EXECUTIVE AND/OR HIS DESIGNEE TO NEGOTIATE AND EXECUTE CONTRACTS ON BEHALF OF THE COUNTY.

Motion made by Combs, seconded by Bathin.

Vote:	Yes	No
Judge Executive Reagan Taylor	<u>✓</u>	_____
Magistrate James Brian Combs	<u>✓</u>	_____
Magistrate Stephen Lochmueller	<u>✓</u>	_____
Magistrate Billy Ray Hughes	<u>✓</u>	_____
Magistrate Tom Botkin	<u>✓</u>	_____

Signed:

R-79
Reagan Taylor
Madison County Judge Executive

10-10-2023
Date

Attested:

Kenny Barger
Kenny Barger
Madison County Clerk

10-10-2023
Date



Madison County EMA/CSEPP
Tim Gray, EMA Director
560 S. Keeneland Drive
Richmond, KY 40475

Re: Contract for Construction of Pre-Engineered EMA Storage Building Resolution 2023-121

This agreement ("Agreement") is entered into as of November 16, 2023, by and between Madison County EMA/CSEPP ("Owner") and Stewart Contracting ("Contractor").

Scope of Work:

Contractor agrees to provide all labor, materials, equipment, and services necessary for the construction and completion of said project, in accordance with the specifications outlined in Awarded RFP package attached hereto (Exhibit A).

Project Timeline:

The construction project shall commence on November 22, 2023 and be substantially completed by March 31, 2024 with all elements and milestones completed by June 30, 2024.

Liquidated Damages

Time is critical and of the essence for completion of this project. If the project is not completed as required by the contract and within the time stated in the contract, then the Contractor shall be obligated to pay the County as liquidated damages, but not as a penalty, the amount of \$500.00 per calendar day for each and every day beyond the completion time stated in the contract until the project is completed. The County may deduct this amount from any funds still due to the Contractor, only if the amount due the Contractor is greater than the damages.

General Terms and Conditions

The Contractor has the expertise, special skills, knowledge, and experience to fully perform the technical services called for in the contract. The Contractor's performance shall at all times be prompt and timely. The Contractor represents that it fully understands the SOW proposed to be done under the contract; and that the Contractor will do this work in a fully and highly competent manner. The Contractor shall be solely responsible for all of its costs related to performance of the contract, unless otherwise specifically stated in the contract.

The Contractor shall comply with all applicable laws, rules, and regulations related to performance of the contract. The Contractor shall comply with all applicable County policies, procedures, rules, and regulations. The Contractor represents and warrants that it has all licenses, permits, and qualifications as are legally or professionally required to perform the services stated in the contract. The Contractor shall keep all such licenses, permits, and qualifications current and in effect throughout the term of the contract.

**Delivery Terms and Transportation Charges**

Unless otherwise stated, the Contractor's price shall be deemed to include all delivery and transportation charges.

Right of Inspection and Rejection

The Contractor's performance shall be subject to inspection and testing by the County or its designated representative at all times during the term of the contract. The Contractor shall provide adequate cooperation to the County or designated personnel to permit the County to determine the adequacy of the Contractor's performance. The Contractor shall at all times permit an appropriate County representative to monitor, assess or evaluate the Contractor's performance under the contract upon reasonable notice.

Conditions of Work

The Contractor acknowledges that it has satisfied itself as to the nature of the County's SOW and its service requirements and specifications, the location and essential characteristics of the work site(s), the quality and quantity of materials, equipment, equipment storage, labor, and facilities necessary to perform the services, and any other condition or fact that could in any way affect performance of the Contractor's obligations as proposed under the contract. Subject to site availability during the project work, the County shall provide the Contractor access to the site(s) and facility(ies) where the Contractor is to perform the services. The Contractor shall be subject to the security, access control, and safety policies and procedures of the County.

Workforce

The Contractor shall employ only orderly and competent workers, skilled in the performance of the services that they will perform under the contract.

The Contractor, its employees, subcontractors, and subcontractor's employees according to federal, state, and local laws may not use or possess any firearms, alcoholic, or other intoxicating beverages, illegal drugs, or controlled substances while on the job or on the County's property, nor may such workers be intoxicated or under the influence of alcohol or drugs on the job.

If the County or the County's designated representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations or was under the influence of alcohol or drugs on the job, the Contractor shall immediately remove such worker from contract services, and may not employ such worker again on contract services without the County's prior written consent.

Compliance with Safety Regulations

The Contractor, its subcontractors, and their respective employees, shall comply fully with all applicable federal, state, county, and local safety and health laws, ordinances, rules, and regulations in the performance of the services, including, but not limited to, those promulgated by the County and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. The Contractor shall indemnify and hold the County harmless from and against



all claims, demands, suits, actions, judgments, fines, penalties, and liability of every kind arising from the breach of the Contractor's obligations under this paragraph.

If excavation is necessary, the Contractor shall take all responsibility for contacting "Kentucky 811" to locate utilities.

Compensation:

Owner agrees to pay Contractor the total contract price not to exceed \$599,410.00, which shall cover all costs associated with the project, as outlined in Exhibit B. Contractor will remit an invoice outlining the scope of work and milestone being completed to:

Madison County Emergency Management
ATTN: Jessie Russell, Finance Officer
Jessica.russell@madisoncountky.gov
560 S. Keeneland Drive
Richmond, KY 40475

Payment Schedule:

Payments will be made in installments as specified below, with the final payment due upon completion and acceptance of the project by the Owner.

• Mobilization Payment/Start Up Site Work	\$115,000.00
• Milestone 1: Completed Trade Site Work (including concrete)	\$133,810.00
• Milestone 2: Building (structural steel, erection, metal walls, etc.)	\$251,130.00
• Milestone 3: Trade Work completion	\$69,500.00
• Final Completion Payment/Acceptance Balance: (5%)	\$29,970.00
• TOTAL	\$599,410.00

Change Orders:

Any changes to the scope of the work must be agreed upon in writing by both parties and may result in adjustments to the contract price and timeline before the work is performed.

Insurance, Permits and Liabilities:

Contractor shall maintain all necessary insurance coverage and permits required for the duration of the project in accordance with local, State and Federal laws as outlined below:

Certificate of Insurance: Contractor shall provide Owner with certificates of insurance evidencing the coverages of each component required herein. Certificates must be provided before commencing work and must include a provision for at least 30 days' written notice to the Owner in the event of policy cancellation or material change. Prior to the start of work, the Contractor shall provide the County with certificates of insurance showing all of these required coverages (listed below), including certified endorsements to the certificates that show the County (and its officers, employees, and agents) have been named as additional insureds.



Insurance Requirements:

The Contractor and all approved subcontractors shall procure and maintain, or cause to be maintained, the following insurance coverage at all times during the term of the contract:

Workers' Compensation: Workers' compensation insurance as required by the laws of the State of Kentucky.

Commercial General Liability: Commercial General Liability insurance coverage in an amount not less than \$5,000,000, including, but not limited to, premises liability, contractual liability, completed operations and personal injury, covering claims that may arise from or out of the Contractor's performance related to the contract.

Automobile Liability: Automotive liability insurance for all vehicles involved with the work in an amount not less than \$5,000,000. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of Kentucky or be otherwise approved by the County in writing.

Indemnification: Contractor agrees to indemnify, defend, and hold harmless Owner, its officers, agents, and employees from and against any claims, damages, losses, liabilities, costs, and expenses, including reasonable attorney's fees, arising out of or in connection with the performance of the work, provided that such claims are attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the work itself) but only to the extent caused in whole or in part by the negligent acts or omissions of the Contractor, its subcontractors, or anyone directly or indirectly employed by them.

Limitation of Liability: Contractor's total liability for any and all claims, damages, losses, or liabilities, whether arising out of contract, negligence, or otherwise, shall not exceed the total contract amount of this Agreement.

Subcontractors: Contractor shall ensure that all subcontractors engaged in the performance of the work carry insurance coverage meeting the same requirements as specified in this clause.

Waiver of Subrogation: To the extent permitted by law, each party waives any right of subrogation against the other and the other's agents, officers, and employees, regardless of the cause of any loss or damage.

This Insurance and Liabilities Clause shall remain in effect for the duration of the project.

Warranties:

Contractor warrants that all work performed under this Agreement will be free from defects in materials and workmanship for a period of three years from the date of project completion.

Termination:



Either party may terminate this Agreement in writing if the other party fails to fulfill its obligations, subject to the terms and conditions outlined.

Notice of Breach: The non-breaching party shall provide written notice to the breaching party specifying the nature of the breach. The breaching party shall have 15 calendar days from the receipt of the notice to cure the identified breach.

Failure to Cure: If the breaching party fails to cure the identified breach within the specified period, the non-breaching party may terminate this Agreement by providing written notice of termination.

Immediate Termination: Notwithstanding the above, either party may terminate this Agreement immediately in the event of a material breach that is incapable of cure.

Termination for Convenience: Owner may, at its sole discretion, terminate this Agreement for convenience upon written notice to the Contractor. In the event of termination for convenience, Contractor shall be entitled to receive payment for work performed, materials delivered, and reasonable demobilization costs up to the date of termination.

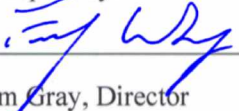
Effect of Termination: Upon termination, the parties shall cooperate to effect a prompt and orderly termination of the services, and Contractor shall promptly deliver to Owner all work in progress, completed work, and any related documentation.

Termination of this Agreement shall not relieve either party from any obligations or liabilities incurred prior to the effective date of termination.

Governing Law:

This Agreement shall be governed by and construed in accordance with the laws of the state of Kentucky.

Accepted by:



Tim Gray, Director
Madison County EMA/CSEPP



Reagan Taylor, Judge/Executive
Madison County



Jason Stewart
Stewart Contracting

Date: 12/7/2023

Date: 12-7-23